

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

WEYERHAEUSER COMPANY

CIVIL ACTION NO. 04-2177-A

-vs-

JUDGE DRELL

PETRO-HUNT, L.L.C.

MAGISTRATE JUDGE KIRK

JUDGMENT

Before the Court is the Magistrate Judge's Order and Report and Recommendation suggesting the Motion to Dismiss Pursuant to Rule 12(b)(6), or Alternatively, for Partial Summary Judgment and Stay (Document No. 13.) and the Motion for Partial Summary Judgment Based Upon Standing or No Right of Action, and Based Upon Laches, Prescription and/or Estoppel (Document No. 31), both filed by Defendant, Petro-Hunt, L.L.C. ("Petro-Hunt") be dismissed without prejudice. The Magistrate Judge has also ordered the parties to submit lists of issues for consideration, and he has ordered Plaintiff to seek certain relief from the Louisiana Commissioner of Conservation. (Document No. 62.)

After reviewing the entire file in this matter, including the written objections, and concurring in part with the Magistrate Judge's findings under the applicable law, this Court adopts the Magistrate Judge's Order and Report and Recommendation subject to the modifications set forth below.

In light of the submissions made by the parties after the Order and Report and Recommendation was prepared, it appears the Magistrate Judge's Order concerning the presentation of "issue" lists has been fulfilled and is MOOT.

The Magistrate Judge has ordered that Plaintiff seek all relief from the Commissioner of Conservation over which the Commissioner has jurisdiction. (Document No. 62.) However, at this point in the litigation, more limited input from the Commissioner of Conservation should be adequate.

Therefore, IT IS ORDERED that Plaintiff seek from the Commissioner of Conservation the following: (1) a determination regarding whether the well and/or wells at issue have been operated according to the rules and regulations of the Office of Conservation; (2) a determination regarding whether the Plaintiff's request for injunctive relief is within the jurisdiction of the Commissioner of Conservation, and, if so, whether that request is appropriate; and (3) such additional data as may be useful in disposing of the issues before this Court.

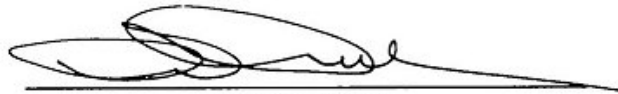
IT IS FURTHER ORDERED that the Motion to Dismiss Pursuant to Rule 12(b)(6), or Alternatively, for Partial Summary Judgment and Stay (Document No. 13) and the Motion for Partial Summary Judgment Based Upon Standing or No Right of Action, and Based Upon Laches, Prescription and/or Estoppel (Document No. 31) are DISMISSED WITHOUT PREJUDICE, with the right to re-file such motions at a later time after adequate discovery has been completed and the

information referenced above has been obtained from the Commissioner of Conservation.

IT IS FURTHER ORDERED that additional proceedings in this matter, except those pertaining to discovery, are STAYED pending further Order of this Court following receipt of the information referenced above from the Commissioner of Conservation.

IT IS FURTHER ORDERED that discovery sought to be conducted during the period of the Stay must be approved by Order of the Court, unless the parties agree to the taking of said discovery.

SIGNED on this 2nd day of May, 2006, at Alexandria, Louisiana.

A handwritten signature in black ink, appearing to read 'Dee D. Drell', written over a horizontal line.

Dee D. Drell
United States District Judge